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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

CI

FILE:

SRC 03 201 50132

Office: TEXAS SERVICE CENTER

Date:

NOV 30 2004

IN RE:

Petitioner:

Beneficiary:

PETITION:

Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained and the petition will be approved.

The petitioner seeks classification as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), to perform services as the Hispanic editor of the *Sooner Catholic*, a biweekly publication of the Archdiocese of Oklahoma City. The director determined that the petitioner had not established that the position qualifies as a religious occupation. The director further found that the petitioner had not entered the United States for the purpose of engaging in religious work.

Section 203(b)(4) of the Act provides classification to qualified special immigrant religious workers as described in section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C), which pertains to an immigrant who:

(i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;

(ii) seeks to enter the United States--

(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

(II) before October 1, 2008, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

(III) before October 1, 2008, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation; and

(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i).

The first issue is whether the petitioner seeks employment in a qualifying occupation. The regulation at 8 C.F.R. § 204.5(m)(2) defines "religious occupation" as an activity which relates to a traditional religious function. Examples of individuals in religious occupations include, but are not limited to, liturgical workers, religious instructors, religious counselors, cantors, catechists, workers in religious hospitals or religious health care facilities, missionaries, religious translators, or religious broadcasters. This group does not include janitors, maintenance workers, clerks, fund raisers, or persons solely involved in the solicitation of donations.

The above lists reveal that not all employees of a religious organization are considered to be engaged in a religious occupation for the purpose of special immigrant classification. The regulation reflects that nonqualifying positions are those whose duties are primarily administrative or secular in nature.

Citizenship and Immigration Services therefore interprets the term "traditional religious function" to require a demonstration that the duties of the position are directly related to the religious creed of the denomination, that the position is defined and recognized by the governing body of the denomination, and that the position is traditionally a permanent, full-time, salaried occupation within the denomination.

██████████ editor of the *Sooner Catholic*, "a newspaper which provides news and information for the Catholic community," states "[w]e need a Hispanic editor to report, photograph, interview, write and edit stories for the two-page Hispanic section" of that newspaper. ██████████ asserts that the petitioner's "communication skills" and graduate-level training in Communication Sciences qualify him for the position. Most Rev. Eusebius J. Beltran, Archbishop of Oklahoma City, cites the church's *Decree on the Means of Social Communication*, which indicates that Catholic doctrine calls for the use of the media to propagate the church's message. Archbishop Beltran asserts that the archdiocese seeks "to employ [the petitioner] full-time . . . at an annualized rate of \$21,000 per year."

Following a request for further evidence, counsel describes the petitioner's position:

For the past two years, [the petitioner] has worked continuously for the Archdiocese of Oklahoma City. His job title has been "Hispanic Editor" of the *Sooner Catholic*, the bi-weekly newspaper for the Archdiocese. . . . His **job duties** included exercising editorial control and judgment over the Spanish language pages in the *Sooner Catholic*, conducting journalistic interviews, photographing subjects for use in the *Sooner Catholic*, writing . . . editing . . . [and] translating news and feature articles of interest to Hispanic Catholics in western Oklahoma, translating Church documents for the benefit of the Spanish-speaking Catholic population in western Oklahoma, and translating statements and homilies of the Archbishop into Spanish. . . .

This position requires someone with training in logical and analytical thinking and reasoning, the ability to write and edit in Spanish at a professional level, the ability to communicate clearly with others, the ability to formulate and implement editorial plans, the ability to work independently, and fluency in Spanish. Although formal theological training is not required for the position, the position does require someone who understands and is committed to Catholic teaching.

Manuel Hernandez of Renew International states that Renew "had given training to [the petitioner]" including "knowledge of theology and Catholic doctrine."

The director denied the petition, stating "[c]learly, this position cannot be considered a religious occupation." The director also found that the petitioner had not submitted sufficient documentation relating to the petitioner's training at Renew International. On appeal, counsel states:

The Service Center has apparently concluded that this position was a secular position rather than a religious occupation since these particular duties are typical of a journalist/editor position generally whether secular or religious. The Service Center failed to cite or discuss the evidence submitted in the initial petition filed July 14, 2003, including the letter date June 9, 2003 from the Archbishop and the Second Vatican Council's *Decree on the Means of Social Communication*, which was attached to the Archbishop's letter. This evidence contextualizes the job duties, conclusively demonstrating that the position of Hispanic Editor for the *Sooner Catholic* is a "traditional religious function."

Counsel notes that 8 C.F.R. § 204.5(m)(2) includes religious broadcasters among qualifying religious occupations, and counsel asserts that the petitioner's position as a journalist is analogous to that of a broadcaster. Counsel states "[t]he journalist/editor has great discretion in what stories to develop and how to

report them,” and the editor of a religious publication will go about his or her work differently than the editor of a secular publication.

The *Decree on the Means of Social Communication* supports the assertion that, at the highest levels, the Roman Catholic Church considers the use of communications media to be an integral tool in its mission. The *Decree* states “an authentically Catholic press ought to be established and supported. Such a press . . . would have for its manifest purpose to form, to consolidate and to promote a public opinion in conformity with . . . Catholic doctrines and directives.”

The *Sooner Catholic* is not merely a newspaper that happens to be published by Catholics. It is an official church publication, with the local Archbishop named as its publisher. Samples of material from the *Sooner Catholic* in the record show that the content of the publication is closely tied to church doctrines and religious activities within the archdiocese. While not every employee of a religious newspaper holds a religious occupation – an individual involved chiefly in graphic layout, or advertising sales, would appear to be engaged in a fundamentally secular activity – the petitioner, in this case, is an editor with control over the content of the publication. As such, he is responsible for creating, coordinating, and publishing religious material, as a representative of the Roman Catholic Church.

The director had questioned the extent of the petitioner’s “specialized religious training.” After careful and prolonged consideration of this issue, the AAO finds that the “training” issue has received a disproportionate amount of weight in adjudications of special immigrant religious worker petitions. Obviously, when a given position clearly requires specific training, 8 C.F.R. § 204.5(m)(3)(ii)(D) requires the petitioner to show that the alien possesses that training; but the issue of training should not be a primary factor when considering the question of whether that position relates to a traditional religious function. Of greater importance is evidence showing that churches or other entities within a given denomination routinely employ paid, full-time workers in comparable positions, and that those positions do not embody fundamentally secular tasks, indistinguishable from positions with secular employers. Upon review of the evidence of record, we find that the petitioner’s position relates to a traditional religious function of the Roman Catholic Church, and therefore constitutes a qualifying religious occupation.

The other issue raised in the director’s decision concerns the petitioner’s entry into the United States. Section 101(a)(27)(C)(ii)(III) of the Act, 8 U.S.C. § 1101(a)(27)(C)(ii)(III), requires that the alien seeking classification “seeks to enter the United States” for the purpose of carrying on a religious vocation or religious occupation. In this instance, the petitioner entered the United States as an F-1 nonimmigrant student. Thus, the director concluded, the petitioner did not enter the United States for the purpose of engaging in religious work.

This finding is not defensible. The AAO interprets the language of the statute, when it refers to “entry” into the United States, to refer to the alien’s intended *future* entry *as an immigrant*, either by crossing the border with an immigrant visa, or by adjusting status within the United States. This is consistent with the phrase “*seeks to enter*,” which describes the entry as a future act. We therefore withdraw this particular finding by the director.

The petitioner has overcome both of the cited grounds for denial of the petition, and review of the record does not readily reveal any other disqualifying information or grounds for denial. The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has met that burden. Accordingly, the appeal will be sustained.

ORDER: The appeal is sustained. The petition is approved.